

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**DIVISION OF HOUSING POLICY DEVELOPMENT**

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December 8, 2006

Mr. Kyle Butterwick
Director of Community Development
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

RE: Review of the City of Dana Point's Draft Housing Element

Dear Mr. Butterwick:

Thank you for submitting the City of Dana Point's draft housing element, received for review on October 10, 2006. As you are aware, the Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). Telephone conversations and other technical assistance with you, Ms. Christy Teague, City Planner, and Mr. Colin Drukker, the City's Consultant, assisted the review.

As you are aware, the most recent submittal of the draft housing element is a complete redraft of the existing element. Therefore, these findings reflect both the substantial content difference between the two elements and new legislative requirements passed since 2000. The Department commends the City for its efforts to engage the community in a thoughtful dialogue about housing-related topics through its May housing summit. However, while the element addresses some statutory requirements, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element should include a more detailed analysis of the sites inventory and governmental constraints. The enclosed Appendix describes the changes needed to comply with State housing element law.

The Department appreciates the City's hard work to develop meaningful housing strategies for all segments of the population. The Department would be pleased to provide any additional assistance necessary, including a meeting in Dana Point, to facilitate the City's efforts to comply with State law. If you have any questions, or wish to schedule a visit, please contact Melinda Coy, of our staff, at (916) 445-5307.

Sincerely,


Cathy E. Creswell
Deputy Director

Enclosure

cc: Colin Drukker, Planning Consultant, The Planning Center
Christy Teague, City Planner

APPENDIX CITY OF DANA POINT

The following changes would bring the City of Dana Point's housing element into compliance with Article 10.6 of the Government Code. The supporting section of the Government Code is cited to accompany each recommended change.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Elements section contains the Department's publication, *Housing Element Questions and Answers* (Qs & As) and the Government Code addressing State housing element law.

A. Review and Revision

1. *Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element (Section 65588 (a) and (b)).*

The review requirement is one of the most important features of the element update as it enables the City to evaluate its success in remedying substandard housing conditions, conserving affordable housing, and providing housing opportunities for all income groups, including lower-income households. The prior element did not include clear objectives, policy, and programs to facilitate a thorough evaluation. Therefore, the City should strengthen and clarify programs within the current element to allow a thorough evaluation of its performance in addressing housing goals in future revisions (see Section C). The next comprehensive housing element update should include a program-by-program review including a comparison of prior objectives versus actual results. This analysis must specifically include:

- *"Effectiveness of the element" (Section 65588(a)(2)):* A description of the actual results of the earlier element's goals, objectives, policies, and programs. The results should be quantified where possible (e.g., rehabilitation results), but may be qualitative where necessary (e.g., mitigation of governmental constraints).
- *"Progress in implementation" (Section 65588(a)(3)):* An analysis of the significant differences between what was projected or planned in the earlier element and what was achieved.
- *"Appropriateness of goals, objectives and policies" (Section 65588(a)(1)):* A description of how the goals, objectives and programs of the updated element incorporate what has been learned from the results of the prior element.

B. Housing Needs, Resources, and Constraints

1. *An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, and the homeless (Section 65583(a)(6)).*

A significant percentage of the population is identified as elderly in the housing element (page 44). The analysis of housing needs for this special needs group should be expanded beyond the basic household and individual counts to include both an estimate of any unmet housing needs and a description of resources available to this population.

The housing element includes general information on the homeless population and resources available within the County, but does not include specific information on population or resources for the City.

These analyses will assist the City in identifying any unmet housing need and whether there is a need for new or expanded program responses. For more information please refer to the Department's Qs & As publication (page 9).

2. *Include the locality's share of regional housing need in accordance with Section 65584 (Section 65583(a)(1)).*

The City may credit units constructed since the beginning of the planning period toward its share of the regional housing need. The element indicates 99 single-family housing units have been constructed since January 1, 1998 affordable to low- and moderate-income households (pages 72-74). While the element describes general sales prices over a period of time to credit units toward Dana Point's regional housing need, the element must describe affordability based on constructed units' actual sale prices or rent levels.

3. *Include an inventory of land suitable for residential development, including sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

In accordance with recently enacted legislation (Chapter 724, Statutes of 2004), the element must include a land inventory and analysis demonstrating the suitability and availability of sites including a listing of properties by unique reference, zoning and general plan designation, size and existing uses. The inventory should also generally analyze the environmental constraints, calculate realistic capacity and describe available or planned infrastructure capacity. A copy of the Department's technical assistance paper has been sent under a separate cover.

The City identifies two strategies to meet its housing objectives including the use of vacant land and redevelopment opportunities (pages 74-81). The element, however, does not adequately describe or analyze the suitability of these sites to address the City's remaining regional housing need allocation especially for lower-income households. To demonstrate the adequacy of identified sites, the land inventory analysis should be revised to include the following:

Analysis of the Sites Inventory

Suitability of Available Vacant Sites – The element must include a parcel-specific listing of sites, including parcel numbers or other “unique” reference, describing general plan designation, zoning, density, and parcel size for those sites that address the City's regional need for moderate- and lower-income households. Identifying smaller sized parcel will assist the city in developing appropriate strategies to encourage and facilitate development of housing affordable to lower-income households. While it may be possible to build housing on a very small parcel, the nature and conditions necessary to construct the units often render the provision of affordable housing infeasible. Therefore, if the element relies on small sites to address its needs, the element must describe the feasibility of small site development for housing affordable to lower-income households, the jurisdiction's role or track record in facilitating small-lot development, and where necessary include program actions for lot consolidation and/or parcel assemblage.

Suitability of Nonvacant Sites – The element must demonstrate the suitability and feasibility of nonvacant sites through a discussion of an analysis of existing uses, development trends, market conditions and regulatory incentives or standards to facilitate redevelopment. For example the element should more specifically describe steps necessary to allow residential uses on Site 1. The element should also describe the impact of coastal requirements on the feasibility of a timely redevelopment of Site 2 and the potential impact of environmental constraints on the feasibility of a timely redevelopment of Site 3. According to the element, none of the identified sites are currently zoned for residential use and will need a general plan amendment or rezone. The element therefore, must also include a program to rezone these underutilized sites.

Realistic Capacity - The element refers to a “standard density” for site capacity (page 76). However, the element must more specifically analyze capacity based on built densities and the impact of the size of the parcels, land-use controls and site improvement requirements. This analysis should evaluate how zoning and development standards impact the ability to achieve maximum permitted densities. In addition, the capacity estimates should reflect realistic development potential (rather than theoretical) considering, among other things, development viability based on size of parcels.

Environmental Constraints - While the element includes a general analysis of environmental constraints found in the City (page 70), the element should describe in greater detail any potential environmental constraints that may affect the development potential of identified sites. Particularly, the element should describe if any clean-up efforts will be necessary to make those redevelopment sites suitable for housing development or any erosion hazards that may impact site development.

Sites with Zoning for a Variety of Housing Types

Emergency Shelters and Transitional Housing - According to the element, emergency shelters are conditionally permitted (CUP) in all zoning districts including transitional housing (page 48). The element should demonstrate if the supply of sites, appropriately located (i.e., near transit and public assistance services), is adequate to facilitate the development of emergency shelters and transitional housing. In addition, the analysis must describe the specific conditions that are required for the use permit, the City's review and approval process (i.e., use permit), and analyze how these processes encourage and facilitate the development of emergency shelters as well as transitional housing. While it may be appropriate to require a CUP for emergency shelters (provided that it does not act as a constraint), the approval process for transitional housing should not require a CUP.

4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities, including local processing and permit procedures (Section 65583(a)(4)).*
 - a) Processing and Permit Procedures – Expand the analysis to further describe permit processing and procedures. The element identifies which zones permit residential uses and whether such uses are permitted or conditional uses (Table H-26). However, the element does not describe the specific permitting process or procedures for various housing types. For example, the element shows multifamily being a permitted use in the multifamily zone, but does not describe standards, decision-making criteria or who approves the application. To address this requirement, the element should discuss processing procedures for single-family and multifamily projects including typical processing procedures, type of permit, level of review, and standard approval procedures including discretionary approval procedures, such as a general plan amendment, for recent residential projects.
 - b) On- and Off-Site Improvement Standards -- The element does not address this requirement. Include a description and analysis of the City's on- and off-site improvements for residential development. This could include requirements for street widths; curbs, gutters, and sidewalks; water and sewer connections; and circulation improvements required of residential developments.

- c) Constraints on Housing for Persons with Disabilities – Although the element briefly describes how the City permits residential care facilities (page 44), the element should include a more detailed analysis of zoning, development standards and approval procedures. For example, the element should discuss: (1) any definitions of family in the zoning code; (2) maximum concentration requirements for residential care facilities; (3) any site planning requirements that may constrain housing for persons with disabilities; (4) whether the City has procedures for providing parking reductions when warranted; and (5) any requirements for on-site services for residential care facilities with six or fewer persons. The element should also clearly describe the process for requesting reasonable accommodation, and how the locality makes information available about requesting a reasonable accommodation with respect to zoning, permit processing, or building laws. A copy of the Department's memo and analysis tool to assist you in addressing this statutory requirement is being sent under a separate cover.
5. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions (Sections 65583(a)(8) through 65583(a)(8)(D)).*

The element identifies the Harbor Point and March Coast Apartment as at-risk within the planning period. Therefore the element must include an analysis of the potential risk of conversion including a cost estimate of replacing the at-risk units, a list of entities with the capacity to acquire at-risk developments and potential funding sources. This analysis will assist the City the development of programs targeted to preserve these units (please refer to the Qs & As publication, page 11).

C. Housing Programs

1. *Include a program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal, state financing and local financial resources (Government Code Section 65583(c)).*

The draft element includes a list of six overarching housing goals, along with a number of policies and programs (pages 13-27). However, many of the programs should be clarified or expanded to: 1) update timelines or milestones (for example, while it is appropriate for some programs to be noted as ongoing, where programs or specific actions have yet to be initiated or require discrete

implementation steps, more specific timeframes are required); 2) describe the City's role and commitment to implementation; and, 3) include numerical objectives where appropriate. Those measures that should be revised/strengthened include, but are not limited to:

Program 1.1 Land Use Element/ Specific Plan – Describe the land-use policies to be implemented and how the policies further housing element objectives.

Program 1.2 Affordable Housing Development – Provide specific timing for when the City will identify sources of funding, when those funds will be applied for, and when the evaluation of vacant and underutilized parcels will occur. The program could also identify the sites under consideration for assistance or acquisition.

Program 1.5 Second Units – Describe what efforts the City will take to promote and encourage the development of second units.

Program 2.1 Housing Assistance Pilot Program – Indicate when the program is to be reopened, what financing will be used, and how many households will be assisted.

Program 2.2 Mortgage Credit Certificates – Describe the City's role in the promotion of the County's program.

Program 2.5 Existing In-Lieu Fee Program – Describe the current fund balance of the in-lieu fee for housing development within the coastal zone and specific timelines and objectives for the intended uses of the fund.

Program 3.1 Zoning Code – Describe the purpose of the program and provide specific objectives.

Program 3.3 Parking Standards Study – Indicate a specific date (month/year) when this program will be accomplished.

Program 4.1 Mobile Home Park Ordinance- Describe what provisions will be included to assist lower-income mobilehome park households. Give a specific date for which the ordinance will be developed.

Program 5.2 Fair Housing Services - Describe how fair housing information is disseminated throughout the City in a variety of public locations.

Program 5.3 Senior Home Assessment – Describe what funding is used to provide this service and how many senior households are expected to be assisted.

Program 6.2 Conservation of Existing and Future Assisted Housing - The program addresses how units in the Monarch Coast Apartments is being conserved but does not address other assisted housing. The program should establish clear objectives and programmed actions to monitor and preserve at-risk units (please refer to the Department's Qs & As publication).

2. *Identify actions that will be taken to make sites available during the planning period of the element with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing (Section 65583(c)(1)).*

As noted in finding B3, the element does not include a complete land inventory analysis and the adequacy of sites cannot be established. Based on the results of a complete land inventory analysis, the City may need to add or expand programs to address a shortfall of sites.

The element must include a program for all zoning changes needed for redevelopment of underutilized sites at appropriate densities to encourage and facilitate housing for lower-income households. While the City's highest density zone, RMF 30, would be adequate to provide the opportunity to lower-income households if the City plans to rely on another zone to meet its share of the regional need for lower-income, the element must demonstrate adequacy of that density to accommodate housing for moderate- and lower-income households. In addition, while the element describes the incentives the City may consider to facilitate redevelopment (page 80), the element should include a program which clearly describes these regulatory incentives or standards the City will offer to facilitate redevelopment on the identified redevelopment sites.

Furthermore, Program 1.3, Sites for Emergency Shelters and Transitional Housing, must describe specific actions the City will take to encourage and facilitate emergency and transitional housing and whether any shelters have been permitted. The element should also revise processing requirements for transitional housing.

For your information, in accordance with recently enacted legislation (Chapter 724, Statutes of 2004), where the inventory does not identify adequate sites pursuant to Government Code Sections 65583(a)(3) and 65583.2, the element must provide a program to identify sites in accordance with subdivision (h) of 65583.2 for 100 percent of the remaining lower-income housing need with sites zoned to permit owner-occupied and rental multifamily uses by-right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 20 units per acre. Also, at least 50 percent of the remaining need must be planned on sites that exclusively allow residential uses and not permit non-residential or mixed uses.

3. *Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities (Section 65583(c)(3)).*

As noted in finding B4, the element requires a more detailed analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to add or expand programs to address and remove or mitigate any identified constraints.

D. Public Participation

Describe the City's diligent effort to achieve public participation of all economic segments of the community in the development of the housing element (Section 65583(c)).

While the element includes a general summary covering the public participation process (page 1), more information is needed to demonstrate how the City has or will make a diligent effort to achieve the involvement all economic segments of the community through the adoption process. The element should be revised to specifically describe the City's efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and individuals and to involve such groups and persons in the development of the element. For example, the element could describe in greater detail the Housing Summit held in May of 2006. During the period between this draft element and the adoption of the final housing element, the City should directly involve lower-income individuals and organizations in the development of the final element.